

VZCZCXRO1775
PP RUEHPA
DE RUEHUJA #0634/01 1061548
ZNY CCCCC ZZH
P 161548Z APR 09
FM AMEMBASSY ABUJA
TO RUEHC/SECSTATE WASHDC PRIORITY 5744
INFO RUEHOS/AMCONSUL LAGOS PRIORITY 1129
RUEHZK/ECOWAS COLLECTIVE
RUEHGB/AMEMBASSY BAGHDAD 0193
RUEHSA/AMEMBASSY PRETORIA 1806
RUEHYD/AMEMBASSY YAOUNDE 0762
RHMFSS/HQ USAFRICOM STUTTGART GE
RHEBAAA/DEPT OF ENERGY WASHDC
RUEAIIA/CIA WASHINGTON DC
RHEHNSC/NSC WASHINGTON DC
RUEKJCS/DIA WASHINGTON DC
RHMFSS/HQ USEUCOM VAIHINGEN GE
RUZEJAA/JAC MOLESWORTH RAF MOLESWORTH UK

C O N F I D E N T I A L SECTION 01 OF 04 ABUJA 000634

SIPDIS

DEPT FOR AF/W, INR/AA
BAGHDAD FOR DMCCULLOUGH

E.O. 12958: DECL: 04/16/2019

TAGS: KIRF KISL PGOV NI

SUBJECT: SHARI'A LAW IN NIGERIA: NOT EXPANDING, BUT
TENSIONS WITH CHRISTIANS GROWING

REF: A. ABUJA 332
 1B. ABUJA 627
 1C. ABUJA 628

Classified By: Political Counselor Walter N.S. Pflaumer for reasons 1.4
(b) and (d)

¶1. (C) Summary: With politics, religion and regionalism likely playing roles in Nigeria's 2011 elections, post will be preparing a number of analytical pieces to look at issues ranging from the influence of selected governors, to ethnicity and religion, with the latter particularly exploring the role Shari'a has played in the North. This cable will review the recent history of Shari'a law in the north of Nigeria, and re-explore the questions of its influence on the region's politics, its application and effect on the northern Christian population, and the ramifications for Muslims who choose not to follow Shari'a. While Shari'a (an Islamic religious and legal code which governs worship and all human interactions) has been practiced in one form or another in what is now northern Nigeria since pre-colonial times, it was limited -- in the colonial period and until ten years ago -- to family and civil matters. In 1999, however, a gubernatorial candidate in one state won an election by pledging that, if elected, he would push for the reintroduction of Shari'a in criminal matters as well, arguing that Shari'a would aid the fight against criminality and corruption. His action led eleven other northern states to follow suit over the next few years.

The 1999-2007 Obasanjo administration, in the name of "national unity," carefully dodged the question of whether or not the application of Shari'a to criminal law was constitutional. Ten years later, the hopes of Shari'a's advocates regarding moral decline and corruption in these twelve states have clearly not been fulfilled; nonetheless, most Muslims in the area still strongly support Shari'a. Calls by a small minority of radical clerics for more significant and fundamentalist changes, including renewed talk of an Islamic state, have so far not achieved much traction. We have noted more recently, however, that there are increased tensions between the Muslim majority and the resident Christian minorities in the twelve Shari'a states, particularly in Kano, Kaduna, Bauchi and Niger states (reftels) where some Christians complain of feeling excluded and ostracized. End Summary.

THE DECLINE AND RISE OF SHARI'A IN NIGERIA

¶12. (U) Shari'a law preceded colonial rule in Nigeria; the Sokoto Caliphate which covered the region was governed by Shari'a law as early as 1804. Under the British policy of indirect rule, the existing legal structures of the area were integrated as much as possible into the colonial government, with emirs and other local traditional rulers controlling prisons, courts, police and local government. Shari'a continued as the legal system for Muslims in the region for family and civil matters, while criminal matters were transferred to the secular courts, which followed British common law. Civil disputes among non-Muslims and disputes between Muslims and non-Muslims were also handled according to common law. In addition, certain aspects of Shari'a law such as "Hudood" punishments (amputation of limbs for stealing, death penalty for adultery, and public flogging for sex outside marriage and consumption of alcohol) were replaced with fines and jail sentences. After independence, because of the country's federal structure, this same system was retained in northern Nigeria, while common law was followed in the South.

¶13. (U) In the 1980s and '90s, during a long period of military rule, Nigeria experienced an economic downturn and a crisis of governance. An economy increasingly dominated by the redistribution, mostly by corrupt means, of petrodollars gradually led to the decline of the formerly dominant agricultural economy, leading many people to migrate to the cities. The deterioration of infrastructure, particularly energy supply, led to the collapse of the textile industries

ABUJA 00000634 002 OF 004

in Kano and Kaduna, adding to already high unemployment and poverty in the North. These circumstances led to an increase in violent crime and a sense of moral decline. Under the Babangida and Abacha military dictatorships, corruption, which was already a problem, soared to new heights.

¶14. (U) These conditions led many northern Nigerians to become frustrated and disenchanted with their political and legal institutions, and some grew nostalgic for what were seen as better times in the past. As poverty rates in the north reached levels over 70%, there were increased calls from some Muslim scholars and preachers for the (re)implementation of the Shari'a criminal code in the hope that it would encourage aid to the poor, and help stem corruption and moral decline. These ideas struck a chord among many.

RE-IMPLEMENTATION OF SHARI'A

¶15. (SBU) When civilian rule returned in 1999, the All Nigerian Peoples' Party (ANPP) candidate for Zamfara State Governor, Ahmed Sani, pledged to bring back the Shari'a if elected. Sani was a newcomer to the political scene, and was considered a very long shot to win, given that he was running against a Peoples' Democratic Party (PDP) heavyweight, former National Security Adviser General Aliyu Mohammed. Sani's Shari'a pledge, however, appealed to many voters in the overwhelmingly Muslim state; well-known moderate Muslim clerics announced their support, and delivered sermons calling for the "revival" of Shari'a, and condemning any dissenting opinion. In the end, Sani surprised most observers by pulling off a narrow victory in the 1999 election. As soon as he took office, Sani fulfilled his pledge to re-implement the Shari'a code as part of the state-run legal system, further expanding it to bring back the "Hudood" punishments for criminal acts. He also established the "Hisbah" (informal, but usually state funded, religious "guardians" with limited arrest powers to enforce Shari'a).

¶16. (SBU) Following the adoption of Shari'a in Zamfara in 1999, Muslim clerics and other community leaders in other heavily Muslim states began agitating for it to be adopted in

their states as well. This groundswell of popular support compelled the governors in these states (if only to be sure of their own re-elections) to follow Sani's lead. Governors who resisted or even tried to slow the pace of implementation were publicly jeered, and at times even stoned by the overzealous public. In the end, by 2002, eleven other northern states had adopted Shari'a law: Bauchi, Borno, Gombe, Jigawa, Kaduna, Kano, Katsina, Kebbi, Niger, Sokoto, and Yobe.

DODGING THE CONSTITUTIONALITY QUESTION

¶7. (U) The constitutionality of Shari'a law has been debated ever since 1999. The Constitution specifically recognizes the Shari'a courts for civil matters, but does not address the question of applying Shari'a to criminal matters, and there has been no court case to resolve the question. On paper, cases which reach the Shari'a Court of Appeal (the highest of three levels of Shari'a courts) can be appealed on to the (secular) Federal Court of Appeal before finally terminating at the Supreme Court. In practice, however, no case involving the status of the Shari'a criminal code has thus far reached the level of the Federal Court of Appeal.

¶8. (SBU) The Federal Executive has been complicit in dodging this question. When Olusegun Obasanjo, a southwestern Christian, was elected President in 1999, the adoption of Shari'a in Zamfara state was seen by many as a major challenge to his government. Obasanjo believed, however, that confronting the issue would pose a threat to national unity, since if he challenged the implementation of Shari'a, he would risk angering most northern Muslims, while if he endorsed Shari'a's constitutionality, he would undermine his support among Christians, as well as weaken the authority of

ABUJA 00000634 003 OF 004

the GON's secular justice system. He, therefore, chose to refrain from pursuing any case which would force the Federal courts to rule on whether Shari'a was either constitutional or unconstitutional. Obasanjo's decision not to challenge the constitutionality of Shari'a appears to have paid off, at least in the short run, as the initial controversy over the issue gradually declined, and no states beyond the original twelve adopted Shari'a.

THE IMPACT OF SHARI'A

¶9. (C) Over the last decade, there has been little to no increase in aid to the poor in the twelve Shari'a states, their governments have generally failed to hold credible elections, and corruption remains endemic. As a result, the hopes of Shari'a's supporters that it would prove an effective way to confront these issues has greatly diminished. While some radical clerics (like Zaria-based Sheikh Ibrahim el-Zakzaky) have tried to use this failure to argue that a full-scale Iran-style Islamic revolution was needed, most moderate scholars, and most of the populace, rejected this view. However, support for Shari'a among Muslims in the twelve states remains strong, according to most observers.

¶10. (SBU) The twelve states which adopted Shari'a do not, of course, have a totally Muslim population. Since colonial times, large numbers of non-Muslims have moved to the region, particularly to the larger cities, such as Kano and Kaduna. Tensions between them and Muslims over the implementation of Shari'a emerged soon after 1999; since the early days of re-implementation, there have been occasional reports of non-Muslims being harassed by Muslims, especially overzealous Hisbah, over their form of dress and for the consumption of alcohol. This is particularly a problem around Ramadan. Some non-Muslims with whom Poloffs spoke complained that Shari'a deepened and perpetuated ethnic divisions, and made them feel excluded and ostracized from the rest of their community. Furthermore, Senator John Shagaya (PDP - Plateau State) told Poloffs that he faults the Shari'a system for its

failure to prosecute crimes committed by Muslims that are reported by Christians. Some even portrayed the existence of Shari'a as part of an effort to "Islamize" Nigeria and create an Islamic State. However, most of those with whom Poloffs spoke found these perceptions to be extreme and unsubstantiated, and the idea that Shari'a would expand to the South or that Nigeria become an Islamic State to be implausible (even laughable).

¶11. (SBU) Most of the time, however, the two communities, and two legal systems, have learned to coexist, with non-Muslims being considered largely outside the jurisdiction of the Shari'a legal system, particularly on criminal cases. To date, there is no record of non-Muslims being convicted by a Shari'a court for violating Shari'a law. Civil cases involving a Muslim and non-Muslim are only heard by the Shari'a courts if the non-Muslim voluntarily expresses this preference. In fact, non-Muslims have at times chosen to have civil cases heard in the Shari'a courts, because they are often cheaper to access and quicker to render decisions than the regular courts.

Comment

¶12. (C) As Nigeria watchers know, however, what is not a problem most of the time can still be a problem some of the time. Muslims and non-Muslims in the North have generally coexisted peacefully, but we have recently seen an up-tick in religious tension, as evidenced by the violence in Plateau, Bauchi and Niger states. We also anticipate an increase in such sectarian problems as the politics of 2011 begin to take shape. Shari'a has tended to maintain and even strengthen the divisions between the Muslim and Christian communities, so that whatever disputes arise quickly tend to take on a sectarian character. One of the most visible effects of growing sectarian tensions in major northern cities, particularly Kano, Kaduna and Jos, has been the increasingly

ABUJA 00000634 004 OF 004

sharp dividing lines between neighborhoods defined as Muslim and those identified as non-Muslim, and the almost total squeezing out of mixed neighborhoods. Having clear lines between where the writ of Shari'a runs and where it does not may seem to make sense, but it also makes it far less likely that Christians and Muslims will ever get to know each other.

End comment.

¶13. (U) This cable was coordinated with Consulate Lagos.
SANDERS